

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than **15 days prior to the close of the written comment period**. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person by **5:00 p.m. on August 7, 2006**. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407 of the Food and Agricultural Code, and to implement, interpret or make specific sections 9561, 9562, 9570, and 9574 of said Code, the Department proposes to amend section 760.4, amend the heading of Article 3.5, and adopt section 765 of Chapter 2, Division 2, of Title 3 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

OVINE BRUCELLOSIS:

Food and Agricultural Code section 9561 authorizes the State Veterinarian of the Department to establish regulations to prevent or eradicate any condition that could cause risk to animals or the health and safety of the citizens of this state. Section 9562 further authorizes the State Veterinarian to quarantine or restrict the movement of animals or animal products to minimize the risk of an illness that could kill or seriously damage other animals or humans. Section 9570 authorizes the State Veterinarian to restrict the importation of animals, animal products, or other property from any state, territory, or foreign country should a quarantine be invoked pursuant to section 9562.

In compliance with sections 9561, 9562 and 9570, the Department has in place existing ovine brucellosis interstate movement regulations under Article 3 (Interstate and Intrastate Movement of Sheep and Goats) of Chapter 2, Division 2, of Title 3 of the California Code of Regulations.

This proposal amends section 760.4 of Article 3, which is needed to further strengthen California's requirements for the importation of sheep by requiring additional testing of animals potentially having ovine brucellosis. The Department is also deleting a requirement that is no longer necessary in section 760.4(a)(2)(B) that rams used for

breeding prior to returning to California must comply with the testing requirements of subsection (a)(2).

This proposal also amends the heading of Article 3.5 and adopts section 765 to set forth the requirements necessary to voluntarily establish a flock of sheep as *Brucella ovis* Free. *Brucella ovis* Free Flock Certification comes at the request of California's sheep industry to further prevent the introduction and spread of ovine brucellosis in California flocks and to facilitate the marketability of California sheep.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Department has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The following compliance requirements are projected to result from the proposed action:

1) Paperwork: This proposal contains paperwork requirements consisting of laboratory testing for *Brucella ovis* in rams. The potential costs would be for the testing or retesting for *Brucella ovis* in rams entering the state, and for the testing of rams in flocks whose owners choose to certify the flock as *Brucella ovis* Free, as specified in this proposal. The testing requirements are intended to control and possibly prevent a disease of sheep that will benefit California's sheep industry, promote healthy animals, and make the industry's products marketable both nationally and internationally.

2) Record Keeping: This proposal does not contain a record keeping requirement. However, for a person or business participating in the certification process in California, the written certification issued by the Department could be considered a record. The certification is valid for one year as specified in this proposal.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Private Persons or Entities: The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Department are:

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2) Record Keeping: This proposal does not contain a record keeping requirement. However, for a person or business participating in the certification process in California, the written certification issued by the Department could be considered a record. The certification is valid for one year as specified in this proposal.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Department of Food and Agriculture must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing (if a hearing is requested from the public), or during the public comment period.

INITIAL STATEMENT OF REASONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing (if a hearing is requested) or during the public comment period upon request from the Department of Food and Agriculture, 1220 N Street, Room A-114, Sacramento, CA 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquires concerning the substance of the proposed regulations is to be addressed to the following:

Name: Anita J. Edmondson, BVM&S, MPVM, MRCVS
Address: Department of Food and Agriculture
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The backup contact person is:

Name: Thami Rodgers, Associate Analyst
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Fax No.: (916) 653-4249
E-mail address: trodgers@cdfa.ca.gov

Written comments, facsimiles or e-mails regarding this proposal are to be addressed to the following:

Name: Thami Rodgers, Associate Analyst
Address: Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 698-3276
Fax No.: (916) 653-4249
E-mail address: trodgers@cdfa.ca.gov

Website Access: Materials regarding this proposal can be found at www.cdfa.ca.gov